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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-ninth session
Agenda item 13 (c)

CONCLUDING ITEMS:

ADOPTION OF THE REPORT ON THE FORTY-NINTH SESSION

Draft report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-ninth session

Rapporteur: Mr. Marc Bossuyt

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* E/CN.4/Sub.2/1997/L.10 and Addenda contain the draft chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Sub-Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Commission on Human Rights, will be contained in documents E/CN.4/Sub.2/1997/L.11 and Addenda.

GE.97-13953 (E)

XI. THE ADMINISTRATION OF JUSTICE AND HUMAN RIGHTS:

(a) QUESTION OF HUMAN RIGHTS AND STATES OF EMERGENCY; (b) APPLICATION OF INTERNATIONAL STANDARDS CONCERNING THE HUMAN RIGHTS OF DETAINED JUVENILES AND THE JUDICIAL PROTECTION OF CHILDREN; (c) GROSS AND MASSIVE VIOLATIONS OF HUMAN RIGHTS AS AN INTERNATIONAL CRIME; (d) JUVENILE JUSTICE.

1. The Sub-Commission considered item 9 at its 26th, 28th, 29th and 34th meetings, held on 22, 25 and 27 August 1997.

2. For the list of documents issued under item 9, see annex ... to the present report.

3. At its 26th meeting, on 22 August 1997, the Special Rapporteur on the question of human rights and states of emergency, Mr. Leandro Despouy, introduced his tenth annual report and list (E/CN.4/Sub.2/1997/19 and Add.1).

4. In this connection, statements were made by the following members of the Sub-Commission: Mr. Ali Khan, Mr. Fix Zamudio, Mr. Guissé, Ms. Gwanmesia, Mr. Weissbrodt and Mr. Zhong Shukong.

5. At its 28th meeting, on 25 August 1997, the Special Rapporteur on the question of impunity of perpetrators of violations of human rights (civil and political rights), Mr. Louis Joinet, introduced his final report (E/CN.4/Sub.2/1997/20).

6. At its 29th meeting, on 25 August 1997, the Chairman-Rapporteur of the sessional working group on the administration of justice, Mr. Louis Joinet, introduced the report of the working group (E/CN.4/Sub.2/1997/21).

7. In the general debate under this item, statements were made by the following members of the Sub-Commission: Mr. Chernichenko (29th), Mr. Eide (28th), Mr. Fix Zamudio (29th), Mr. Guissé (28th), Ms. Gwanmesia (28th), Mr. Lindgren Alves (28th).

8. The Sub-Commission also heard statements by the representatives of the following non-governmental organizations: Afro-Asian People's Solidarity Organization (28th), American Association of Jurists (28th), France Libertés: Fondation Danielle Mitterrand (29th), Franciscans International (29th), Indigenous World Association (28th), International Association against Torture (29th), International Association of Democratic Lawyers (28th), International Commission of Jurists (28th), International Educational Development, Inc. (28th), International Falcon Movement - Socialist Educational International (29th), International Federation of Human Rights Leagues (28th), International

Institute for Peace (28th), International League for the Rights and Liberation of Peoples (29th), International Movement for Fraternal Union among Races and Peoples (28th), International Prison Watch (28th), International Progress Organization (29th), International Service for Human Rights (28th), Liberation (29th), North South XXI (28th), Pax Christi International (29th), Pax Romana (26th), Transnational Radical Party (26th), War Resisters' International (28th), Women's International Democratic Federation (28th), World Organization against Torture (29th), Worldview International Foundation (29th).

9. Statements were made by the observers for: Georgia (29th), Mexico (29th), Pakistan (29th), Russian Federation (29th), Tunisia (29th).

10. Statements equivalent to a right to reply were made by the observers for Yemen (29th) and Ethiopia (29th).

Situation of street children and minor detainees

11. At its 34th meeting, on 27 August 1997, the Sub-Commission considered draft resolution E/CN.4/Sub.2/1997/L.9, sponsored by Ms. Daes, Mr. Eide, Ms. Ferero Ucros, Mr. Guissé, Ms. Gwanmesia, Mr. Maxim, Mr. Mehedi and Ms. Warzazi.

12. A statement in connection with the draft resolution was made by Ms. Warzazi.

13. The draft resolution was adopted without a vote. For the text of the resolution see chapter II, section A, resolution 1997/24.

Report of the sessional working group on the administration of justice

14. At its 34th meeting, on 27 August 1997, the Sub-Commission considered draft decision E/CN.4/Sub.2/1997/L.25, sponsored by Mr. Chernichenko, Mr. Diaz Uribe, Ms. Gwanmesia, Mr. Joinet and Mr. Park.

15. Mr. Weissbrodt orally amended the draft decision by inserting the words "in all circumstances" after the words "considered to be non-derogable" and after the words "making habeas corpus a non-derogable right".

16. Statements in connection with the draft decision were made by Mr. Alfonso Martinez, Mr. Guissé, Mr. Joinet and Mr. Yimer.

17. The draft decision as amended was adopted without a vote. For the text of the decision see chapter II, section B, decision 1997/115.

The administration of justice and human rights

18. At its 34th meeting, on 27 August 1997, the Sub-Commission considered draft decision E/CN.4/Sub.2/1997/L.40, sponsored by Mr. Ali Khan, Ms. Attah,

Mr. Boutkevitch, Ms. Daes, Mr. Decaux, Mr. Diaz Uribe, Mr. Eide, Mr. Fix Zamudio, Mr. Guissé, Ms. Gwanmesia, Mr. Hatano, Mr. Khalil, Mr. Lindgren Alves, Mr. Maxim, Mr. Mehedi, Mr. Park, Mr. Weissbrodt, Mr. Yimer and Mr. Zhong Shukong.

19. A statement in connection with the draft decision was made by Mr. Joinet. For the text of the decision see chapter II, section B, decision 1997/116.

Juvenile justice

20. At its 34th meeting, on 27 August 1997, the Sub-Commission considered draft resolution E/CN.4/Sub.2/1997/L.48, sponsored by Mr. Alfonso Martinez, Mr. Ali Khan, Ms. Attah, Mr. Bossuyt, Mr. Boutkevitch, Mr. Chernichenko, Ms. Daes, Mr. Diaz Uribe, Mr. Eide, Mr. El- Hajjé, Mr. Fix Zamudio, Mr. Guissé, Ms. Gwanmesia, Mr. Hatano, Mr. Joinet, Mr. Khalil, Mr. Lindgren Alves, Mr. Maxim, Mr. Mehedi, Mr. Park, Ms. Warzazi, Mr. Weissbrodt and Mr. Yimer.

21. Mr. Alfonso Martinez orally revised the draft resolution by replacing, at operative paragraph 4, the words "system of administrative justice" with the words "systems of administration of justice".

22. The draft resolution, as amended, was adopted without a vote. For the text of the resolution see chapter II, section A, resolution 1997/25.

Privatization of prisons

23. At its 36th meeting, on 28 August 1997, the Sub-Commission considered draft resolution E/CN.4/Sub.2/1997/L.49, sponsored by Mr. Alfonso Martinez, Mr. Ali Khan, Ms. Attah, Mr. Bossuyt, Mr. Boutkevitch, Mr. Diaz Uribe, Mr. Eide, Mr. El-Hajjé, Ms. Gwanmesia, Mr. Joinet, Mr. Mehedi, Ms. Warzazi and Mr. Yimer.

24. Mr. Alfonso Martinez proposed to revise the draft resolution by replacing, at operative paragraphs 1 and 2, the words "the rule of law" with the words "the obligation to respect and implement the legislation in force in the country concerned".

25. Ms. Palley proposed to amend the resolution by replacing, at operative paragraphs 1 and 2, the words "one of its titular experts" by the words "Mr. Ali Khan".

26. Mr. Alfonso Martinez proposed to revise the amendment proposed by Ms. Palley by adding, after the words "Mr. Ali Khan", the words "in the event that Mr. Ali Khan remains a member of the Sub-Commission".

27. Statements in connection with the draft resolution and amendments were made by Mr. Alfonso Martinez, Mr. Joinet and Ms. Palley.

28. At the proposal of Mr. Joinet, a vote was taken on whether to close the debate. The motion was adopted by 13 votes to 7, with no abstentions.

29. At the proposal of Mr. Yimer, a vote was taken on whether to adopt the amendment proposed by Mr. Alfonso Martinez. The motion was rejected by 13 to 2, with 7 abstentions.

30. Statements were made by Mr. Alfonso Martinez, Ms. Daes, Mr. Eide, Mr. Fan Guoxiang, Mr. Guissé, Mr. Joinet, Ms. Palley and Mr. Weissbrodt.

31. At the proposal of Mr. Yimer, a vote was taken on whether to adopt the amendment proposed by Ms. Palley. The motion was adopted by 17 to 2, with 3 abstentions.

32. The draft resolution as revised and amended was adopted without a vote. For the text of the resolution see chapter II, section A, resolution 1997/26.

Question of human rights and states of emergency

33. At its 36th meeting, on 28 August 1997, the Sub-Commission considered draft resolution E/CN.4/Sub.2/1997/L.56, sponsored by Mr. Alfonso Martinez, Mr. Fan Guoxiang, Mr. Diaz Uribe, Mr. Khalil, Mr. Fix Zamudio and Mr. Yimer.

34. Mr. Weissbrodt proposed, in writing, to amend the draft resolution by deleting operative paragraphs 1 and 2, and replacing them with a new text.

35. A statement was made by Mr. Alfonso Martinez.

36. The draft resolution as amended was adopted without a vote. For the text of the resolution see chapter II, section A, resolution 1997/27.

Question of the impunity of perpetrators of violations of human rights (civil and political rights)

37. At its 34th meeting, on 27 August 1997, the Sub-Commission considered draft resolution E/CN.4/Sub.2/1997/L.60, sponsored by Mr. Ali Khan, Ms. Attah, Mr. Bossuyt, Mr. Chernichenko, Ms. Daes, Mr. Diaz Uribe, Mr. Eide, Mr. El-Hajjé, Mr. Fix Zamudio, Mr. Guissé, Ms. Gwanmesia, Mr. Hatano, Mr. Khalil, Mr. Lindgren Alves, Mr. Maxim, Mr. Mehedi, Ms. Palley, Ms. Warzazi, Mr. Weissbrodt and Mr. Yimer.

38. Mr. Alfonso Martinez proposed to amend the draft resolution by deleting operative paragraph 4.

39. Ms. Warzazi proposed to revise the draft resolution by adding, at operative 3, after the words "à sa cinquante-quatrième session" the words "en vue de sa transmission éventuelle à l'Assemblé Générale à travers l'ECOSOC".

40. Statements in connection with the draft resolution were made by Mr. Alfonso Martinez, Ms. Warzazi and Mr. Yimer.

41. The draft resolution, as amended, was adopted without a vote. For the text of the resolution, see chapter II, section A, resolution 1997/28.

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